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FROM: James P. Hillman, Esq.
RE: Woodsborough Homes Association
Amendment of Governing Documents

MESSAGE:

Enclosed herewith is a letter being sent to your office via USPS. Thank you for your attention to the foregoing.

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February 8, 2018

City of Santa Clara
Planning Division
City Hall
1500 Warburton Avenue
Santa Clara, CA

Re: Woodsborough Homes Association
Amendment of Governing Documents

Dear Planning Division:

Please be advised that this law firm represents Woodsborough Homes Association ("Association"), a common interest development project located in the City of Santa Clara. The Woodsborough CC&Rs provide that certain provisions therein can only be amended by the Association membership with the "written consent and approval of the City of Santa Clara." The Association is considering amending and revising a provision subject to that consent requirement and would like to seek, or apply for, such consent.

Our firm believes an amendment to the existing C&CRs is necessary for a number of important reasons. The current CC&Rs were created in 1980, and thus pre-date many important legislative and case law developments related to community associations such as the seminal Davis-Stirling Act that governs all community associations in California. The current Article XV of the CC&Rs contains an onerous approval requirement that must be satisfied in order for the Association to make any changes at all to the existing CC&Rs that are nearly 40 years old. This onerous amendment threshold prevents the Association from making meaningful revisions to the CC&Rs to incorporate, and account for, the evolution of law in the community association field, thus an amendment modestly reducing this high ceiling will allow the Association to take future action to prevent contradictions between the current CC&Rs and changes in the law. Another important reason for amending the CC&Rs is that the developer-created documents were not drafted and organized to govern the Association well after the developer completed the project. For example, Article XV still contains a provision (Section 1) requiring declarant approval and the declarant-developer has long since left the project which was built more than three decades ago.

The proposed language for the First Amendment to the CC&Rs is described in Exhibit "A." The current language of Article XV in the CC&Rs is described in Exhibit "B." The First Amendment, if adopted by the Association membership, would supersede the current Article XV but please note that the First Amendment still retains the City approval requirement.



Please let us know if you need any further information from us. If you have any questions regarding the First Amendment, please do not hesitate to contact me. Thank you and we look forward to hearing from you in the near future.

Very truly yours,

A handwritten signature in black ink, appearing to read 'J.P. Hillman'. The signature is fluid and cursive, with a large loop at the end.

JAMES P. HILLMAN

Enclosures
JPH/tih

Exhibit A

**FIRST AMENDMENT TO THE DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS ESTABLISHING A PLAN OF CONDOMINIUM
OWNERSHIP FOR WOODSBOROUGH HOMES ASSOCIATION**

This First Amendment to the Declaration of Covenants, Conditions and Restrictions Establishing a Plan of Condominium Ownership for Woodsborough Homes Association (the "CC&Rs") is made as of the date hereafter shown by the approval of the Members as provided in Article XV, of the Declaration of Covenants, Conditions and Restrictions Establishing a Plan of Condominium Ownership for Woodsborough Homes Association as hereinafter described.

RECITALS

WHEREAS, the Declaration of Covenants, Conditions and Restrictions Establishing a Plan of Condominium Ownership for Woodsborough Homes Association ("CC&Rs") was recorded on or about February 29, 1980, as Document number 06661631 in the Official Records of the County of Santa Clara, State of California.

WHEREAS, the above-described CC&Rs have not previously been amended or restated.

NOW, THEREFORE, the Declaration of Covenants, Conditions and Restrictions Establishing a Plan of Condominium Ownership for Woodsborough Homes Association is hereby amended as follows:

1. **Article XV of the CC&Rs is hereby amended and superseded in its entirety as follows:**

ARTICLE XV

AMENDMENT

1. Amendment by Membership. Subject to the limitations set forth in Article XIV and this Article XV, the quorum requirement for any amendment of the Declaration of Covenants, Conditions and Restrictions Establishing a Plan of Condominium Ownership for Woodsborough Homes Association shall be the number of written ballots received from Members eligible to vote and casting a valid written ballot. Any amendment of this Declaration shall be approved by affirmative vote of not less than sixty-six percent (66%) of the above described quorum in an election conducted pursuant to secret written ballot per Civil Code Sections 5100 through 5135.

2. Reliance on Amendments. Any amendments made in accordance with the terms of this Declaration shall be presumed valid as to anyone relying thereon in good faith.
3. Amendments to Conform with Mortgagee Requirements. It is the intent of Declarant that this Declaration and the Articles and By-Laws of the Association, and the Development in general, meet all requirements necessary to purchase, guarantee, insure or subsidize any mortgage of a Unit in the development by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Federal Housing Administration and the Veterans' Administration. In furtherance of that intent, Declarant expressly reserves the right and shall be entitled by unilateral amendment of the Declaration as long as Declarant owns more than twenty-five percent (25%) of the Condominiums in the Development to incorporate any provisions that are, in the opinion of any of the cited entities or governmental agencies, required to conform the Declaration, the Articles, the By-Laws or the Development to the requirements of any of the entities or governmental agencies including without limitation, the execution on behalf of the Association of a regulatory agreement between the Association and the Federal Housing Commissioner. Any such provision shall first have been approved by the DRE in connection with its issuance of a Final Subdivision Public Report or amendment to it with respect to the Development. Each Owner of a Unit and each Mortgagee of a Unit by acceptance of a deed or encumbrance of a Unit consents to the incorporation in this Declaration of any such provisions and to the execution of any such regulatory agreement and agrees to be bound by any such provisions as if it were incorporated in this Declaration. The Board and each Owner shall take any action or shall adopt any resolution required by Declarant or any Mortgagee to conform this Declaration or the Development to the requirements of any of the entities or agencies.
4. Approval of City of Santa Clara. Amendments to this Declaration shall require the written consent and approval of the City of Santa Clara.

**CERTIFICATE OF PRESIDENT AND SECRETARY FOR
COMMERCIAL ASSOCIATON**

The undersigned President and Secretary of WOODSBOROUGH HOMES ASSOCIATION, a California non-profit mutual benefit corporation, do hereby certify that the above First Amendment to the Declaration of Covenants, Conditions and Restrictions Establishing a Plan of Condominium Ownership for Woodsborough Homes Association consisting of three (3) pages, inclusive of the signature pages, was duly adopted by written ballot approved by the required percentage of the Members of the WOODSBOROUGH HOMES ASSOCIATION and that it now constitutes a First Amendment to the Declaration of Covenants, Conditions and Restrictions Establishing a Plan of Condominium Ownership for Woodsborough Homes Association.

DATED: _____

PRESIDENT:

BY _____
President_____
[Print Name]

DATED: _____

SECRETARY:

BY _____
Secretary_____
[Print Name]

Exhibit B

ARTICLE XV

AMENDMENT

1. Amendment Prior to Close of First Sale. Prior to the recordation of the first sale of a Condominium in the Development to a purchaser other than Declarant, the Declaration and any amendments thereto may (subject to the approval of the DRE) be amended in any respect by the execution by Declarant of an instrument amending or revoking same, which instrument shall make appropriate reference to this Declaration and any amendment thereto and which instrument shall be acknowledged and recorded in the office of the County Recorder.

2. Amendment After Close of First Sale. After the recordation of the first sale of a Condominium in the Development to a purchaser other than Declarant, if a two-class voting structure is still in effect in the Association, this Declaration can be amended only with the vote or written assent of members entitled to cast a majority of the voting power of each class of membership in the Association. If a

two-class voting structure is no longer in effect in the Association because of the conversion of Class A membership to Class B membership, as provided in the Declaration, this Declaration can be amended only with the vote or written assent of members entitled to cast a majority of the voting power of the Association, which majority shall include at least a majority of the votes of members other than Declarant. However, if any provision of this Declaration requires a greater or lesser percentage of the voting rights of any class of Members in order to take affirmative or negative action under such provision, the same percentage of such class or classes of Members shall be required to amend or revoke such provision. Also, if the consent or approval of the City or County or any other governmental authority, Mortgagee or other person, firm, agency or entity is required under this Declaration with respect to any amendment or revocation of any provision of this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained. Any amendment or revocation subsequent to the recordation of such first sale shall be evidenced by an instrument certified by the secretary or other duly authorized officer of the Association and shall make appropriate reference to this Declaration and its amendments and shall be acknowledged and recorded in the office of the County Recorder.

3. Business and Professions Code Section 11018.7. The foregoing to the contrary notwithstanding, all amendments or revocations of this Declaration shall comply with the provisions of Section 11018.7 of the California Business and Professions Code to the extent such section is applicable thereto.

4. Reliance on Amendments. Any amendments made in accordance with the terms of this Declaration shall be presumed valid as to anyone relying thereon in good faith.

5. Amendments to Conform with Mortgage Requirements. It is the intent of Declarant that this Declaration and the Articles and By-Laws of the Association, and the Development in general, meet all requirements necessary to purchase, guarantee, insure or subsidize any mortgage of a Unit in the development by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Federal Housing Administration and the Veterans' Administration. In furtherance of that intent, Declarant expressly reserves the

right and shall be entitled by unilateral amendment of the Declaration as long as Declarant owns more than twenty-five percent (25%) of the Condominiums in the Development to incorporate any provisions that are, in the opinion of any of the cited entities or governmental agencies, required to conform the Declaration, the Articles, the By-Laws or the Development to the requirements of any of the entities or governmental agencies including without limitation, the execution on behalf of the Association of a regulatory agreement between the Association and the Federal Housing Commissioner. Any such provision shall first have been approved by the DRE in connection with its issuance of a Final Subdivision Public Report or amendment to it with respect to the Development. Each Owner of a Unit and each Mortgagee of a Unit by acceptance of a deed or encumbrance of a Unit consents to the incorporation in this Declaration of any such provisions and to the execution of any such regulatory agreement and agrees to be bound by any such provisions as if it were incorporated in this Declaration. The Board and each Owner shall take any action or shall adopt any resolution required by Declarant or any Mortgagee to conform this Declaration or the Development to the requirements of any of the entities or agencies.

6. Approval of City of Santa Clara. Amendments to this Declaration shall require the written consent and approval of the City of Santa Clara.